



Legal Implications of Unilateral Termination of Employment on the Protection of Workers' Rights in the Indonesian Employment System

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Article History Received : 2024-07-19 Revised: 2024-07-22 Published: 2024-09-30 Keywords: <i>termination of employment, legal protection, workers, industrial relations.</i>	Unilateral termination of employment (PHK) is still one of the main problems in industrial relations in Indonesia because it has the potential to ignore the normative rights of workers and cause legal uncertainty. Changes to labor regulations through Law Number 6 of 2023 concerning Job Creation are expected to be able to create a balance between the flexibility of the business world and the protection of workers, but its implementation still faces various challenges. This study aims to analyze the legal implications of unilateral termination of employment on the protection of workers' rights and examine the effectiveness of the applicable legal arrangements in the Indonesian labor system. This research is a normative legal research using a legislative approach and a conceptual approach. The legal materials used consist of primary, secondary, and tertiary legal materials that are analyzed qualitatively descriptively through deductive reasoning methods. The results of the study show that layoffs can only be carried out based on the reasons and procedures determined by laws and regulations and must be accompanied by the fulfillment of workers' rights in the form of severance pay, service award money, and other normative rights. However, the practice of unilateral layoffs still causes economic, social, and psychological losses for workers due to weak company compliance, labor supervision, and the effectiveness of law enforcement. Therefore, legal protection of workers requires more effective implementation of regulations, optimal supervision, and consistent law enforcement to ensure legal certainty and justice in industrial relations.

I. INTRODUCTION

Employment relations are one of the important instruments in realizing community welfare while supporting national economic growth. From the perspective of the state of law, employment relations are not only seen as civil relations between workers and employers, but also as legal relations that contain a dimension of protection of human rights. Therefore, the state is obliged to ensure that every worker obtains legal certainty, fair treatment, and protection of normative rights as guaranteed in Article 27 paragraph (2) and Article 28D paragraph (2) of the 1945 Constitution of the Republic of Indonesia. The constitutional guarantee affirms that the right to work and to receive fair treatment in employment relationships is part of a fundamental right that cannot be ignored by anyone, including employers (Duncan, 2017).

Nevertheless, the dynamics of industrial relations show that the conflict between the

interests of workers and the interests of the company is still a growing problem. One of the forms of conflict that most often causes disputes is termination of employment (PHK), especially layoffs carried out unilaterally by companies. In principle, layoffs are a last resort (*Last Resort*) which can only be done when there are reasons allowed by the laws and regulations and through predetermined procedures. However, in practice, not a few companies carry out layoffs for reasons of efficiency, business restructuring, disciplinary violations, or other reasons without being supported by adequate procedures or the fulfillment of workers' rights according to the provisions of the law. This condition not only gives rise to industrial relations disputes, but also creates legal uncertainty for workers who suddenly lose their livelihoods (Wibowo & Herawati, 2021).

The issue of unilateral layoffs has become increasingly complex after the reform of labor

regulations through Law Number 11 of 2020 which was later stipulated as Law Number 6 of 2023 concerning Job Creation along with Government Regulation Number 35 of 2021. The reforms aim to increase the flexibility of the labor market, encourage investment, and create a more competitive business climate. On the other hand, however, changes in regulations regarding the mechanism of layoffs, compensation, and employment relations have raised a debate about the extent to which legal protection for workers can still be effectively realized. This condition shows that there is a tug-of-war between the interests of economic development and the state's obligation to ensure the protection of workers' rights (Kartika et al., 2021).

From the perspective of employment law, layoffs are not only the end of the employment relationship between workers and the company, but also legal events that cause various juridical consequences. Workers who are laid off unilaterally have the potential to lose their rights to income, social security, career opportunities, and economic certainty for their families. In addition to the economic impact, layoffs can also have social and psychological consequences in the form of increased mental burden, decreased quality of life, and reduced sense of security at work. Therefore, legal protection for workers who are laid off is not only related to the provision of severance pay, but also concerns the guarantee of legal certainty, procedural justice, and the fulfillment of workers' constitutional rights.

Normatively, Law Number 6 of 2023 and Government Regulation Number 35 of 2021 have regulated various reasons that can be used as the basis for layoffs along with the rights of workers that must be fulfilled by the company. However, various industrial relations disputes that continue to occur show that the existence of legal norms has not been fully able to prevent the practice of layoffs carried out unilaterally or without complying with the specified procedures. In many cases, workers still face difficulties in obtaining severance pay, severance pay, reimbursement, and access to effective industrial relations dispute resolution mechanisms. This fact shows that there is a gap between normative regulation and legal implementation in the field (Handoko, 2019).

Various previous studies have generally discussed layoffs from the aspect of legal protection, industrial relations dispute resolution, or the fulfillment of workers' normative rights. However, there is still relatively little research

that comprehensively examines the juridical implications of unilateral layoffs on the protection of workers' rights in the context of the paradigm shift in labor law after the reform of the Job Creation regulation. In fact, these changes have significant consequences for the balance of industrial relations, legal certainty, and the effectiveness of protecting workers' rights in Indonesia.

Based on this description, this study aims to analyze the legal implications of unilateral termination of employment on the protection of workers' rights in the Indonesian labor system, identify the juridical impact caused to workers, and evaluate the effectiveness of applicable legal arrangements in ensuring legal certainty, justice, and protection of workers' constitutional rights. This research is expected to contribute to the development of labor law as well as become an evaluation material for policymakers in realizing a fairer, more balanced, and oriented industrial relations system that is oriented towards the protection of workers' rights.

II. RESEARCH METHODS

This research is a normative legal research that examines the legal implications of unilateral termination of employment on the protection of workers' rights in the Indonesian labor system. The approach used includes the legislative approach (*Statute approach*) and conceptual approaches (*conceptual approach*). The research data is sourced from secondary legal materials consisting of primary, secondary, and tertiary legal materials. Data analysis was carried out in a qualitative descriptive manner through the study of relevant laws and regulations, doctrines, and literature, then conclusions were drawn using the deductive method (Jonaedi Efendi & Rijadi, 2022).

III. RESULTS AND DISCUSSION

A. Legal Limitations on Termination of Employment in the Indonesian Employment System

Termination of employment is one of the legal events that has the most significant consequences in industrial relations because it ends the entire legal relationship between workers and employers and the rights and obligations inherent in them. Therefore, Indonesian labor law does not place layoffs as an absolute right of the employer, but as a legal action that can only be carried out based on certain reasons and through procedures determined by laws and regulations. This

principle reflects the function of labor law as an instrument of protection for workers who are economically and structurally in a weaker position than employers (Putri et al., 2021).

This paradigm is affirmed in Law Number 6 of 2023 concerning the Stipulation of Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation into Law and Government Regulation Number 35 of 2021 which stipulates that layoffs must basically be avoided and can only be carried out if there are valid reasons according to the law. Thus, any company's decision to terminate an employment relationship cannot be based solely on unilateral considerations, but must meet substantive and procedural requirements as a form of protection for workers' rights (Triyani & Tarina, 2021).

In these provisions, layoffs can be carried out for various reasons that have been determined by laws and regulations, including the expiration of the Fixed-Time Work Agreement (PKWT), resignation of workers, violations of discipline that meet certain criteria, company efficiency, company losses, bankruptcy, company closure, forced circumstances (*Force Majeure*), workers who have died, entered retirement age, and other reasons that are limitatively regulated in Government Regulation Number 35 of 2021. The regulation shows that the labor law does not prohibit layoffs, but limits its use so that it is not carried out arbitrarily and still pays attention to the balance of interests between workers and employers (Avianto et al., 2022).

In addition to regulating justified reasons, the labor law also stipulates a prohibition on laying off workers for discriminatory reasons or related to the implementation of workers' constitutional rights. This provision is reflected in Article 153 of Law Number 13 of 2003 whose substance is still maintained in the current labor law regime, namely the prohibition of laying off workers for carrying out worship, marriage, pregnancy, childbirth, breastfeeding, forming or becoming a member of a trade union, carrying out state obligations, reporting criminal acts committed by employers, or due to differences in religion, ethnicity, race, gender, political views, or certain health conditions as determined by laws and regulations. The ban is the implementation of the principle of non-discrimination and respect for human rights in employment relations.

From a legal protection perspective, the limitation of the reasons for layoffs has a very important meaning because it provides legal

certainty for workers regarding the conditions that can end the employment relationship (Wibowo & Herawati, 2021). Without these restrictions, the company has the potential to use its authority to terminate the employment relationship unilaterally based on subjective considerations or business interests alone. Such a situation will put workers in an increasingly vulnerable position because job loss can occur at any time without adequate legal protection.

On the other hand, the regulation of the reasons for layoffs also shows that the law seeks to maintain a balance between the interests of workers and business sustainability. Companies are still given room to lay off if they face economic conditions that threaten their business continuity or if workers commit violations that can legally be used as a basis for termination of employment. Thus, labor law not only serves to protect workers, but also ensures the sustainability of business activities as long as they are carried out in accordance with the principles of legal certainty, justice, and good faith (Hidayatullah & Nugroho, 2022).

Although the normative framework has provided relatively clear limits, in industrial relations practice there are still various layoffs that are carried out without fulfilling the reasons and procedures as specified in laws and regulations. It is not uncommon for workers to be dismissed without a bipartite negotiation process, without compensation according to the provisions, or without legal reasons that can be accounted for. This condition shows that the main problem in the Indonesian labor system no longer lies in the lack of legal norms, but in the effectiveness of law implementation and enforcement. As a result, unilateral layoffs are still one of the main sources of industrial relations disputes and have a wide impact on the protection of workers' rights.

B. Legal Implications of Unilateral Termination of Employment on the Fulfillment of Workers' Rights

Termination of employment not only ends the legal relationship between workers and companies, but also gives birth to various legal consequences related to the fulfillment of workers' rights. From the perspective of labor law, every layoff must be followed by the fulfillment of normative rights as a form of protection for workers who have lost their source of livelihood. This principle is the implementation

of Article 27 paragraph (2) and Article 28D paragraph (2) of the 1945 Constitution of the Republic of Indonesia which guarantees the right to work, decent livelihood, and fair treatment in employment relations. Therefore, the rights of workers after layoffs are not a form of mercy from the company, but a legal obligation that must be fulfilled in accordance with the provisions of laws and regulations (Gunadi, 2021).

Regulations regarding workers' rights due to layoffs are currently regulated in Law Number 6 of 2023 concerning Job Creation and Government Regulation Number 35 of 2021. In this provision, workers who experience layoffs are in principle entitled to receive severance pay, service award money, and compensation money according to the reason for the layoff and the period of service they have. The amount of these rights varies depending on the basis for the layoff, so not all workers receive the same amount of compensation. The arrangement shows that the law seeks to provide economic protection for workers so that job loss does not directly eliminate their ability to meet the needs of life (Wibowo & Herawati, 2021).

The existence of severance pay and various forms of compensation basically have a very important social function. The right is not only intended as compensation for the termination of the employment relationship, but also as an instrument of temporary protection for workers while looking for a new job. Thus, severance pay is part of the social *safety net* which aims to reduce the risk of poverty and economic instability due to job loss. If these rights are not met, workers will face a much greater economic burden, especially for those who are the main breadwinners in the family.

In the practice of industrial relations, the problem that most often arises does not lie in the normative regulation of workers' rights, but in its implementation. Not a few companies carry out layoffs without paying severance pay, service award money, or other rights in accordance with the provisions of laws and regulations. There are even companies that lay off first, then delay compensation payments for various reasons, such as financial difficulties or the company restructuring process. Such a condition shows that the existence of legal norms is not fully able to provide legal certainty if it is not followed by effective supervision and law enforcement (Yuanita, 2022).

Unilateral layoffs also have a very significant economic impact on workers. Losing a job means

losing the main source of income that has been used to meet the needs of daily life. For workers who are the head of the family or the backbone of the family, this condition not only affects themselves, but also has an impact on the welfare of all family members. A decline in economic ability can cause difficulties in meeting basic needs, such as food, education, health, and shelter. In many cases, workers are forced to use savings, sell assets, or even borrow funds from families or financial institutions to maintain survival (Kamil, 2024).

In addition to having an economic impact, unilateral layoffs also have social consequences that cannot be ignored. Job loss often leads to a decrease in a person's social status in society, especially if the job has been a social identity and a source of recognition in social life. The breakdown of employment also eliminates the social network that is formed in the company environment so that workers have the potential to experience social isolation (*Social isolation*). In the long run, these conditions can reduce confidence and affect workers' ability to adapt to the new work environment (Nengsih et al., 2024).

Another impact that is no less important is the psychological impact. Layoffs that are carried out unilaterally without certainty about workers' rights often cause emotional distress in the form of anxiety, stress, frustration, and depression. Uncertainty about the future, difficulty in getting a new job, and the responsibility of meeting family needs are factors that weigh on the psychological burden of workers. Even under certain conditions, this pressure can seriously affect mental health and reduce the quality of life of workers and their families. Therefore, legal protection for workers who experience layoffs is not only understood as an obligation to pay compensation, but also as a form of state responsibility in ensuring the continuity of a decent life for every citizen.

Based on a legal protection perspective, the impact of unilateral layoffs shows that job loss is not just the end of the contractual relationship between workers and companies, but rather a legal event that has far-reaching economic, social, and psychological implications. Therefore, the effectiveness of legal protection is not only measured by the completeness of the regulation of workers' rights in laws and regulations, but also by the ability of the legal system to ensure that each of these rights can be truly accepted by workers quickly, fairly, and with legal certainty. Thus, the goal of labor law to create a balance

between the interests of the company and the protection of workers can be realised in the practice of industrial relations.

C. Legal Protection Problems for the Practice of Unilateral Termination of Employment

Although laws and regulations have regulated in detail the reasons, procedures, and rights of workers in termination of employment, the practice of unilateral layoffs is still one of the most frequent forms of industrial relations disputes in Indonesia. This problem shows that the existence of legal norms has not been fully able to ensure the effective implementation of legal protection. In many cases, companies still view layoffs as a management instrument to carry out operational cost efficiency without always paying attention to procedures and workers' rights as specified in laws and regulations (Fajrianto, 2023).

From a company's economic perspective, layoffs can indeed be one of the strategies to reduce the burden of labor costs, especially when the company experiences a decline in revenue, organizational restructuring, technological changes, or business competition pressures. The reduction in the number of workers is considered to be able to increase operational efficiency and maintain the sustainability of business activities. Therefore, labor law does not prohibit companies from laying off as long as it is based on legitimate reasons, carried out in accordance with legal procedures, and followed by the fulfillment of all workers' rights. Thus, the efficiency of the company should not be used as legitimacy to ignore legal protection for workers (Jahari & Artita, 2023).

Problems arise when layoffs are carried out solely to avoid legal obligations that should be fulfilled by the company. In industrial relations practice, there are still actions of companies that carry out layoffs without a legally accountable reason, without going through a negotiation mechanism, or without providing compensation in accordance with the provisions of laws and regulations. It is not uncommon for workers who have served for many years to lose their rights to severance pay, work award money, and other normative rights due to unilateral company decisions. Such practices show the abuse of the company's dominant position in employment relations that is contrary to the principles of justice and legal certainty (Purnomo & Soekirno, 2022).

The problem becomes more complex when the company goes bankrupt or stops its business

activities. Normatively, bankruptcy law and labor law provide a special position to workers' rights as creditors who must obtain protection in the bankruptcy settlement process. However, in practice, companies are still found that do not carry out their obligations even though there has been a court decision with permanent legal force. There are even situations where the company owner establishes a new business entity to continue his business activities without first completing obligations to workers in the previous company. This phenomenon shows that the main problem does not lie in the lack of regulation, but in the lack of compliance with the law and the effectiveness of the implementation of court decisions.

This condition reflects the inequality of the bargaining position (*Bargaining Position*) between workers and companies. Workers are generally in a weaker position because they rely on work as their main source of income, while companies have greater economic resources and access to the law. This inequality causes workers to often accept layoff decisions without being able to fight for their rights optimally, especially if the process of resolving industrial relations disputes requires a long time and costs a lot of money (Hutabarat et al., 2021).

Therefore, the effectiveness of legal protection for workers is not enough to be realized through the formation of laws and regulations alone, but also requires strengthening the function of labor supervision, increasing company compliance with legal norms, and optimizing industrial relations dispute resolution mechanisms. Consistent law enforcement is the main factor to prevent companies from using layoffs as a means of avoiding legal obligations or obtaining improper economic benefits. Thus, the goal of labor law to realize fair, balanced, and socially just industrial relations can be effectively implemented.

D. The Effectiveness of Legal Protection for Workers Due to Unilateral Termination of Employment

Legal protection of workers is one of the manifestations of the welfare state (*welfare state*) which places the state as the responsible party for ensuring the fulfillment of the basic rights of citizens in the field of employment. In industrial relations, legal protection is not only intended to provide certainty for workers' rights, but also to maintain a balance in the relationship between workers and employers so that there is no abuse

of authority by parties with a more dominant economic position (Tharanon, 2019). Therefore, the existence of laws and regulations regarding termination of employment must be understood as an instrument of protection for workers, not solely as an administrative mechanism in terminating employment relations.

Normatively, Indonesia's labor law system has provided various protection instruments for workers who have experienced layoffs. Law Number 6 of 2023 concerning Job Creation and Government Regulation Number 35 of 2021 regulates the reasons for layoffs, the procedures that must be taken, the right to severance pay, service award money, compensation money, and the mechanism for resolving industrial relations disputes. In addition, workers are also given access to file objections through bipartite negotiations, mediation, conciliation, arbitration, and lawsuits to the Industrial Relations Court if their rights are not fulfilled by the company. The arrangement shows that normatively the law has provided adequate space for workers to obtain justice (Iswaningsih et al., 2021).

However, the effectiveness of legal protection is not only determined by the completeness of the substance of the regulation, but also by the success of its implementation. In practice, there are still many workers who face obstacles when fighting for their rights after experiencing unilateral layoffs. The process of resolving industrial relations disputes often takes a long time, a lot of money, and the ability to understand legal procedures that are not available to all workers. This condition causes some workers to choose to accept the layoff decision even though their rights have not been fulfilled optimally. As a result, the legal goal of providing certainty and justice has not been fully achieved.

Another problem that also affects the effectiveness of legal protection is the weak labor supervision function. The labor supervisor has the authority to ensure the company's compliance with the provisions of laws and regulations, including in the implementation of layoffs. However, the limited number of supervisors, the breadth of the supervisory area, and the low level of compliance of some companies cause supervision to not run optimally. This condition opens up opportunities for violations of workers' rights which are ultimately only known after industrial relations disputes arise (Fuad et al., 2024).

In addition to supervision, the effectiveness of legal protection is also influenced by the company's compliance in implementing industrial relations dispute settlement decisions. It is not uncommon for companies to delay or even ignore the implementation of decisions that have permanent legal force on the grounds of financial difficulties and business restructuring. This phenomenon shows that legal certainty is not enough to be realized through court decisions, but must also be supported by effective execution mechanisms so that workers' rights can be truly fulfilled.

From a legal policy perspective, the protection of workers due to unilateral layoffs requires a more comprehensive approach. The state is not only obliged to establish regulations that provide legal certainty, but also to ensure the availability of an effective supervisory system, a quick and simple dispute resolution mechanism, and consistent law enforcement against companies that violate labor provisions. On the other hand, companies must also place the principles of good faith, fairness, and social responsibility as part of corporate governance (*Good Corporate Governance*) so that the layoff policy is not solely based on short-term economic interests, but also considers the rights of workers as subjects protected by law (Karo et al., 2022).

Based on this description, it can be understood that the main challenge of legal protection for workers no longer lies in the availability of legal norms, but in the effectiveness of law implementation and enforcement. Therefore, synergy between the government, employers, trade unions, and industrial relations dispute settlement institutions is the main prerequisite for realizing an employment system that is able to provide legal certainty, justice, and optimal protection for workers who experience unilateral termination of employment.

IV. CONCLUSIONS AND SUGGESTIONS

A. Conclusion

Unilateral termination of employment is a legal action that can only be carried out based on the reasons and procedures that have been determined in the laws and regulations. In the Indonesian labor system, workers who are laid off still have the right to legal protection in the form of severance pay, service award money, reimbursement money, and access to industrial relations dispute resolution mechanisms. However, the practice of unilateral layoffs still

often leads to violations of workers' normative rights due to weak company compliance, labor supervision, and the effectiveness of law enforcement. The impact is not only in the form of economic losses due to the loss of sources of income, but also has an impact on the social and psychological conditions of workers and their families. Therefore, the main problem of worker protection does not lie in the lack of legal regulation, but in the lack of optimal implementation of regulations and law enforcement mechanisms. The effectiveness of legal protection can only be realized through a balance between the interests of the business world and the fulfillment of workers' rights based on the principles of justice, legal certainty, and the protection of human rights in industrial relations.

B. Suggestions

The government needs to strengthen labor supervision and the effectiveness of resolving industrial relations disputes, while companies must carry out every termination of employment in accordance with legal procedures and fulfill all normative rights of workers in a timely manner. On the other hand, workers need to increase their understanding of their rights in order to be able to take advantage of the legal protection mechanisms available in the event of unilateral termination of employment.

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